



November 5, 2002

Ms. Moira Parro
Assistant District Attorney
Dallas County
411 Elm Street, Suite 500
Dallas, Texas 75202

OR2002-6294

Dear Ms. Parro:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 171811.

Dallas County (the "county") received a request for "parking records detailing the entrance and departure times of criminal district court judges, county criminal court-at-law judges and county appeals court judges from the Crowley Courts Building parking facility beginning Jan. 1, 2001 until the present day." You contend that these parking records are not subject to the Public Information Act (the "Act"), pursuant to section 552.003 of the Government Code. You argue, alternatively, that the parking records are excepted from disclosure under section 552.108 of the Government Code. You submitted representative samples of the records at issue to this office for review.¹ We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

The Act, chapter 552 of the Government Code, governs the release of public information collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by or for a governmental body. Gov't Code § 552.002. Section 552.003(1)(B) provides that the definition of "governmental body" for purposes of the Act does not include the judiciary. You assert that the requested parking records are records of the judiciary and thus are not subject to the Act. In support of your argument, you refer to the Texas Supreme Court *per curiam* opinion for Miscellaneous Docket No. 97-9141 (issued August 21, 1997), which determined that Supreme Court telephone billing records are judicial records not subject to access under the Act. We note that the telephone billing records at issue were collected and were being maintained for the court by the General Services Commission ("GSC"), in GSC's capacity as an agent of the court. However, in this situation, the parking records at issue are records of the county that are being maintained for the county, rather than records of the judiciary. As the county is a governmental body for purposes of the Act, and county records are generally subject to the Act, we will address your arguments that the parking records are otherwise protected from disclosure. *See* Open Records Decision Nos. 646 at 2-3 (1996) (citing *Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.--San Antonio 1983, no writ), administrative records reflecting day-to-day management of community supervision and corrections department are subject to Act), 204 at 3 (1978) (information held by county judge is subject to Act except to extent it pertains to cases and proceedings before county court).

You assert that the parking records are protected from disclosure under section 552.108 of the Government Code. Section 552.108(b)(1) provides an exception from disclosure for internal records or notations of a law enforcement agency or prosecutor that are maintained for internal use in matters relating to law enforcement or prosecution if release would interfere with law enforcement or prosecution of crime. Generally, a governmental body claiming an exception from disclosure under section 552.108(b)(1) must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *Ex parte Pruitt*, 551 S.W. 2d 706 (Tex. 1977).

You note that the parking records requested are for the judges who try criminal cases. You state that some of the individuals sentenced by these judges, and also other individuals, "have felt inclined to seek retribution" against these criminal court judges. In order to help ensure the safety of the criminal judges whose parking records are at issue, the county maintains a secure parking area. Another safety measure employed is the use of security checkpoints

with metal detectors and x-ray machines, through which individuals entering the criminal courthouse must pass. You inform this office that the sheriff's department, a law enforcement agency, has criminal jurisdiction over the courthouse and secured garage, and that the access and exit information is retained "for investigative purposes should there be a criminal incident."

You contend that public release of records showing a judge's usual arrival and departure time could compromise that judge's safety because "any individual bent on doing harm" to one of the judges could use the parking records to determine when a judge is likely to be arriving or leaving a secured area, and thus would be more vulnerable to attack. In this situation, we believe that you have shown that release of the requested parking records could compromise the security measures used to protect the judges. Open Records Decision No. 413 (1984) (release of sketch showing security measures might seriously impair legitimate law enforcement interests). Therefore, the parking records at issue may be withheld from disclosure pursuant to section 552.108.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be

provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cindy Nettles".

Cindy Nettles
Assistant Attorney General
Open Records Division

CN/jh

Ref: ID# 171811

Ms. Moira Parro - Page 5

Enc. Submitted documents

c: Ms. Miriam Rozen
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(w/o enclosures)